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WPA 3420 of 2023

Girdhar Fiscal Services Pvt. Ltd.
Vs
The Principal Commissioner of Income Tax(Central), Kolkata-2 & Ors.

Mr. Avra Mazumder,
Mr. Suman Bhowmik,
Mr. Samrat Das
... For the Petitioner.
Mr. Vipul Kundalia,
Mr. Prithu Dudhoria
... For the Respondents.

Heard learned Advocates appearing for the parties.

Petitioner has filed this writ petition challenging the impugned order dated 29th November, 2022, under Section 127 of the Income Tax Act, 1961 transferring the Income Tax File of the petitioner from Kolkata to Lucknow on the ground that the same has been passed without providing any material to the petitioner on the basis of which such decision of transferring the file of the petitioner has been taken and without giving any opportunity of personal hearing in spite of his representation dated 27th April, 2022 being Annexure P-2 to the writ petition. Petitioner in support of his contention of non-providing of opportunity of personal hearing, has relied on a decision of the Hon'ble Division Bench of this Court, dated 17th February, 2023, in MAT 141 of 2023 with I.A. No. CAN 1 of 2023 I.A. No. CAN 2 of 2023 in the case of Nouvelle Advisory Services Private Limited Vs. Assistant Commissioner of

Income Tax, Circle 13(1), Kolkata & Ors., reported in 2023(2) TMI 866-CALCUTTA HIGH COURT.

Considering the facts and circumstances of this case as appears from record and submission of the parties I find that neither the materials as asked for by the petitioner nor opportunity of personal hearing was provided to the petitioner though in this case a show-cause-notice was issued to the petitioner to file objection to the impugned action of transfer of the petitioner's file but it is the case of the petitioner that he is not able to file any effective objection in view of non-providing of any materials for taking such action of transfer against the petitioner.

Mr. Kundalia, learned Advocate appearing for the respondents opposes this writ petition by contending that in this case opportunity of hearing was given to the petitioner by way of filing objection but he could not produce any record to show that opportunity of personal hearing was provided to the petitioner or the materials asked for by the petitioner was provided to him. He further submits that the effect has already been given to the impugned order of transfer dated 29th November, 2022.

Considering the facts and circumstances of the case and the decision of the Hon'ble Division Bench of this Court in the case of Nouvelle Advisory Services

Private Limited (supra), this writ petition is disposed of by directing the respondent authority concerned to provide relevant documents to the petitioner indicating the basis for taking such order of transfer of the petitioner's file and to provide opportunity to file further objection, if such material is supplied and also to give opportunity of personal hearing to the petitioner, within eight weeks from the date of communication of this order. In case the petitioner is able to satisfy the respondent authority concerned, in course of personal hearing, in that event the respondent authority concerned shall revoke its order of transfer under Section 127 of the Income Tax Act, 1961.

Till any fresh decision is taken after the personal hearing provided to the petitioner, the respondent authority concerned shall maintain status quo with the regard to any further proceedings.

(Md. Nizamuddin, J.)